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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,015	04/07/2000	Seth Haberman	20429/1	9448

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EXAMINER
SLOAN, NATHAN A

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 April 2000* .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 April 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4 and 5* .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Drawings

1.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they

include the following reference sign(s) not mentioned in the description: item 66 of Figure 2 and

items 501, 402, and 210 of Figure 5. A proposed drawing correction, corrected drawings, or

amendment to the specification to add the reference sign(s) in the description, are required in

reply to the Office action to avoid abandonment of the application. The objection to the drawings

will not be held in abeyance.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-3 and 5-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Picco et

al. (6,029,045).

With respect to claims 1, 10, and 11, Picco et al. teach a system used to dynamically

insert commercials to an audience of viewers based on viewer profiles and demographics.

Advertisers form a message campaign as is well known in the art, and may specifically target

only a specific profile or geographic region. As taught in column 7, lines 55-67 and column 8,

lines 1-6 local advertising data has a corresponding content profile that indicates, using

distribution variables, which geographic regions to distribute advertising to. By indicating

geographic distribution regions to personalize messages to viewers, the claimed "narrative

framework for personalize message" is taught. The claimed "message template comprising a

plurality of media segment slots" is met by broadcast programming containing commercial break

slots for advertising. As seen in Figure 2, television signals 20 divide programming 72 into a

plurality of segments, separated by local content space 74. Programming is divided by content

spaces that allow insertion of advertisements or commercial breaks. The claimed several "media

segments correspond to a same one of said media segment slots of said message template" is met

by a plurality of commercials from advertisers that may be inserted into local content spaces 74.

As seen in Figure 4, database structure 146 stores a plurality of advertising segments that may be

inserted into local content spaces 74. A scheduler 148 is used to determine what local content

should be presented to live feeds based on statistics, taught in column 7, lines 2-25. The

examiner notes that it is well known in the art to select advertisements for presentation to

viewers during commercial breaks based on user preferences. Specifically, Picco et al. teach the

claimed "plurality of expert rules" and assembly component "responsive to user profile data of

said intended audience to apply said plurality of expert rules to said user profile data in order to

select appropriate media segments for each of said media segment slots of said message

template, in order to assemble said personalized message for said intended audience" with content data and profile rules that are used to select which pieces of advertisement information are presented to viewers during local content spaces, taught in column 8 lines 7-22. The selected local content or advertisement is then spliced into programming as seen in step 258 of Figure 10.

With respect to claim 2, the claimed "audience having no direct control over said narrative framework for said personalized messages" is taught by Picco with a system that collects and stores user profile statistics and compares these statistics to advertisement content profiles to determine a match of advertisements of interest to viewers.

With respect to claim 3, the claimed use of environmental or temporal information to select appropriate message is taught in column 6, lines 59-67 and column 8, lines 1-2 with the use of temporal information regarding the time of day to display content, stored in the content profile. As noted above, the content profile is then taught in column 8 lines 7-22 to be compared to user profiles to determine which advertisements to display.

With respect to claim 5, the claimed multiple media segments being of different lengths, and "said message template appropriately adjusts said personalized message based on a length of a selected on of said media segments" is taught by Picco with reformatting data streams containing programming and content streams. As taught in column 11, lines 4-9 an appropriate piece of content or advertisement is selected based on size of space in the programming stream, and the data stream may be reformatted to accept it. Both the local content data stream and the programming stream are reformatted, taught in column 12, lines 24-30, and the resulting data stream is presented to viewers.

With respect to claims 6 and 12, the claimed assembling of the personalized message "immediately before presentation to said intended audience" is met by selecting a local content advertisement during a live feed, immediately before presentation, to display to viewers. As seen in Figure 10, while programming data 252 is being displayed if a local content space is discovered an advertisement is selected using the methods discussed above and spliced into programming data at step 258. As taught in column 8, lines 7-11 the local content is inserted during live feed as needed.

With respect to claim 7, the claimed "user profile data of said intended audience is obtained from a plurality of user information data sources" is taught in column 7, lines 2-32 with the requesting of household statistics by scheduler148 of Figure 4. As seen in figure 3, a plurality of houses exist that may transmit profile data, each being a user individual data source as claimed.

With respect to claims 8 and 9, the claimed message campaign including a target entity profile is met as noted above by content profiles associated with content data. Advertisers distribute advertisements with content profiles that are compared to user profile data to provide "an indication of appropriate media segments" as claimed. As seen in Figure 9, the content profile is compared to viewer preferences at step 234 to determine if the content is appropriate for a viewer. In this manner the content profile, claimed target entity profile, is used to select an audience from user information sources by selecting only viewers indicating a match through user profiles. Column 7, lines 61-67 and column 8, lines 1-6 teach by example that this process is particularly useful to target viewers in particular geographic regions by using a distribution variable within the content profile.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Picco et al.

(6,029,045).

Picco et al. do not teach "media segments selected from the group including audio, video,

background, animation, synthesized graphics, and voice." As seen in Figure 8, an audio unit

190, video unit 192, and graphics unit 194 exist but no mention is made of background or

animation media segments. Examiner notes that advertisers are well known to advertise using a

variety of formats including those claimed. Examiner takes Official Notice that it is well known

in the art to use background and animated advertisements. It would have been obvious for one

skilled in the art to modify the methods taught by Picco with the addition of background and

animated media segments in order to provide a variety of advertisements that catch the attention

of viewers.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Loncteaux (6,302,852) teaches a system of displaying advertising information using animation where the number of frames to be displayed is variable based on length of a display time slot.

Srinivasan et al. (6,411,992) teach a system that selects commercials based on demographic using tables that relate commercial information to viewer data.

Klosterman et al. (2002/0092017) teaches a system and method used to substitute audio/video signals, graphics, or text based using tables relating advertisement information to user profiles.

Logan et al. (5,986,69) teach a system and method for editing program content based on preferences of individual viewers. Data is gathered from multiple sources to represent audience selection and advertisements are selected and optionally edited, including the use of subsitute background audio.

Wilkins (5,446,919) teach a system and method used to target demographically or profile defined audience. Profiles are gathered from multiple sources and advertisements are then selected to be inserted into a schedule based on user profiles.

Knee et al. (2002/0095676) teach an interactive television program guide using demographic information and user values to determine which advertisements to present to viewers.
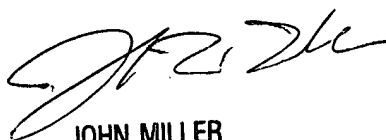
Sitnik (6,160,570) teach a television system that selects images for presentation to viewers based on user profiles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan A Sloan whose telephone number is (703)305-8143. The examiner can normally be reached on Monday-Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached on (703) 305-4795. The fax phone number for the organization where this application or proceeding is assigned is (703)308-5399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-3900.

JOHN MILLER
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